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Paper No.

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WASHINGTON DC 20005

**COPY MAILED**

**JUL 23 2009**

**OFFICE OF PETITIONS**

In re Application of : DECISION ON  
Richard Fernandes : APPLICATION FOR  
Application No. 09/514,946 : PATENT TERM ADJUSTMENT  
Filed: February 28, 2000 :  
Attorney Docket No. 2470-105 :

This is in response to the PETITION TO CORRECT PATENT TERM ADJUSTMENT filed on April 20, 2009. Patentees request that the Patent Term Adjustment for the above-identified patent be increased from five hundred (500) days to one thousand six hundred eighty-one (1681) days.

The application for patent term adjustment patent is GRANTED.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) at the time of mailing of the Notice of Allowance is ONE THOUSAND SIX HUNDRED EIGHTY-ONE (1681) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 21, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is five hundred (500) days. This was based on an Office delay of 562 days reduced by an applicant delay of 62 days. Applicants timely filed the instant application for patent term adjustment.<sup>1</sup>

<sup>1</sup> A review of PALM financial records indicates that the issue fee was paid on April 20, 2009.

Applicants assert entitlement to additional patent term adjustment for Office delay because a notice of allowance was mailed on January 21, 2009, which is four (4) months and 1181 days after the day after the date of mailing, on June 27, 2005, of a decision on appeal by the Board of Patent Appeals and Interferences (BPAI) reversing the examiner.

37 CFR 1.703(a)(5) states, in pertinent part that the period of adjustment under § 1.702(a) is the sum of the following periods: The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On June 27, 2005, the BPAI decision reversing the examiner was mailed. On January 21, 2009, four (4) months and 1181 days after the day after the date that the final decision by the BPAI was mailed, a notice of allowance was mailed. Accordingly, entry of a period of Office delay of 1181 days is warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance should be adjusted to one thousand six hundred eighty-one 1681 days (1743 days of Office delay reduced by 62 days of applicant delay).


Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three (3) weeks prior to issue.

The \$200 fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent.

The application is being forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" being more prominent than the last name "Johnson".

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Tuesday  
Date: 7/21/2009

# PALM INTRANET

Time: 19:14:42

## PTA Calculations for Application: 09/514946

Application Filing Date:	02/28/2000	PTO Delay (PTO):	562
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	62
Post-Issue Petitions:	0	Total PTA (days):	1681
PTO Delay Adjustment:	1181		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	07/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1181		
54	01/21/2009	MAIL NOTICE OF ALLOWANCE			
53	01/14/2009	ISSUE REVISION COMPLETED			
52	01/14/2009	DOCUMENT VERIFICATION			
51	01/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/31/2006	NOTICE OF ALLOWABILITY			
49	06/28/2005	MAIL BPAI DECISION ON APPEAL - REVERSED	562		36
48	06/27/2005	BPAI DECISION - EXAMINER REVERSED			
47	12/23/2004	DOCKETING NOTICE MAILED TO APPELLANT			
46	12/23/2004	ASSIGNMENT OF APPEAL NUMBER			
45	10/22/2004	APPEAL AWAITING BPAI DOCKETING			
44	09/21/2004	MAIL REPLY BRIEF NOTED BY EXAMINER			
43	09/20/2004	REPLY BRIEF NOTED BY EXAMINER			
42	07/13/2004	DATE FORWARDED TO EXAMINER			
41	07/06/2004	REPLY BRIEF FILED			
40	05/06/2004	MAIL EXAMINER'S ANSWER			
39	05/03/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
38	02/27/2004	DATE FORWARDED TO EXAMINER			
37	02/17/2004	APPEAL BRIEF FILED			
36	12/15/2003	NOTICE OF APPEAL FILED		62	28
35	12/15/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	11/14/2003	MAIL ADVISORY ACTION (PTOL - 303)			
33	11/13/2003	ADVISORY ACTION (PTOL-303)			
32	10/23/2003	DATE FORWARDED TO EXAMINER			

31	10/14/2003	AMENDMENT AFTER FINAL REJECTION			
30	10/07/2003	CORRESPONDENCE ADDRESS CHANGE			
29	08/28/2003	CORRESPONDENCE ADDRESS CHANGE			
28	07/14/2003	MAIL FINAL REJECTION (PTOL - 326)			
27	07/11/2003	FINAL REJECTION			
26	05/03/2003	DATE FORWARDED TO EXAMINER			
25	04/28/2003	RESPONSE AFTER NON-FINAL ACTION			
24	01/28/2003	MAIL NON-FINAL REJECTION			
23	01/27/2003	NON-FINAL REJECTION			
22	11/19/2002	DATE FORWARDED TO EXAMINER			
21	11/12/2002	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
20	11/19/2002	DATE FORWARDED TO EXAMINER			
19	11/12/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
18	11/19/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
17	11/12/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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